

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. The petitioner is a single parent with two children. This case arises from petitioner's actions subsequent to an application for benefits dated March 5, 2007. As part of that application, the petitioner agreed to cooperate with the Department in obtaining child support for her minor children; in particular, her younger child. After two verification requests, petitioner completed Child and Medical Support Authorizations naming her children's fathers.

2. On or about July 11, 2007, the Family Court sent petitioner a notice that a Case Manager's Conference was scheduled for July 30, 2007 regarding the parentage of her younger child.

3. Petitioner did not appear for the July 30, 2007 conference. The Office of Child Support (OCS) asked the Department to sanction petitioner for failure to cooperate. Petitioner notified the department that she was unable to attend the conference due to a sick child. The Department did not impose a sanction.

4. On or about July 30, 2007, the Family Court sent petitioner a notice that a hearing was scheduled for September 4, 2007. The hearing notice informed petitioner that the court did not provide childcare and that children were not permitted to attend court hearings.

5. Petitioner did not appear for the September 4, 2007 court date. In addition, the putative father did not attend the court hearing. The Family Court entered an Order that day awarding petitioner parental rights and responsibility for her younger child. Child support was not established on that date.

6. OCS notified the Department that petitioner did not appear at her court hearing and asked the Department to

sanction petitioner. On or about August 1, 2007, the Department sent petitioner a notice that her grant was being sanctioned and reduced effective September 1, 2007.

7. Petitioner appealed the sanction on September 25, 2007.

8. The fair hearing commenced on November 1, 2007. Petitioner testified that she did not attend the September 4, 2007 hearing because she did not have childcare. Petitioner further testified that she telephoned the court to explain that she was unable to attend the hearing due to lack of childcare. Petitioner noted that OCS was able to obtain a court order without her attendance so that she believed no harm resulted.

The fair hearing was continued to allow the parties to submit additional documentation including verification from the Family Court of petitioner's September 4, 2007 telephone call.

9. Child support was established on October 29, 2007 when petitioner attended a child support hearing. The maximum sanction period covers September 1 through October 29, 2007.¹

¹ Department materials note that petitioner's RUFA grant may have closed September 30, 2007 which would create a one-month sanction.

10. The Department was informed by Family Court staff that they had no record of petitioner informing them of her inability to attend the September 4, 2007 court date due to childcare difficulties.

ORDER

The Department's decision to sanction petitioner's grant is affirmed.

REASONS

The federal government has mandated that cooperation in obtaining child support is a condition for receipt of RUFA assistance. This requirement is found in Welfare Assistance Manual (W.A.M.) § 2331 which states:

Assignment of support rights is the legal procedure by which a person receiving public assistance agrees to turn over to the state any right to child support, including arrearages, paid by the noncustodial parent in exchange for receipt of a financial grant and other benefits. The state will use a portion of such child support to defray or recoup its expenditures for Reach Up financial assistance.

Assignment of support rights is a condition for Reach Up financial assistance. . . .

Cooperation includes identifying the absent parent and participating in court hearings to establish parentage when the parents are not married and/or to establish the amount of child support. W.A.M. § 2232. If a recipient fails to

cooperate, the recipient's grant will be reduced by 25 percent until the parent has cured the sanction. W.A.M. § 2232.

On March 5, 2005, petitioner signed an application that informed her that she needed to assign her child support rights as a condition of eligibility. Petitioner completed Child and Medical Support Authorizations for both of her children which included notification that assignment of support rights is a condition for RUFA eligibility.

On July 30, 2007, the Family Court sent petitioner notice of a September 4, 2007 hearing. The hearing notice informed petitioner that children were not allowed in the hearing and that the court did not provide daycare. The hearing notice gave petitioner approximately five weeks notice. Five weeks should be sufficient time to arrange childcare.

Although petitioner testified that she informed Family Court on September 4, 2007 that she did not have child care, the Department was not able to verify that information. It should be noted that petitioner later attended a hearing to establish the amount of child support on October 29, 2007. By doing so, she cured her noncooperation so that the sanction could be lifted.

Based on the foregoing, the petitioner failed to cooperate in the establishment of child support. The Department's decision to sanction petitioner's grant is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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